

**United States Bankruptcy Court  
Central District of California  
Riverside  
Magdalena Reyes Bordeaux, Presiding  
Courtroom 303 Calendar**

**Tuesday, May 2, 2023**

**Hearing Room 303**

11:00 AM

**6: -**

**Chapter 0**

**#0.00** Judge Reyes Bordeaux will hold hearings in person and remotely via Zoom.gov.

**In person Appearance Policies**

Parties may appear in person for hearings at United States Bankruptcy Court located at 3420 Twelfth Street, Riverside, CA 92501 in Courtroom 303. Parties appearing in person must wear face masks, practice social distancing, and comply with all applicable guidelines of the United States Bankruptcy Court, Central District of California, and any additional requirements required under California State Law at the time of the hearing. Please note that Judge Reyes Bordeaux will not be wearing a mask.

**Remote Appearance Policies**

Parties may also appear remotely for hearings using ZoomGov, which permits parties to appear by video or by telephone. Hearing participants and members of the public may use ZoomGov free of charge to connect to hearings before Judge Reyes Bordeaux. Video and audio connection information for hearing(s) on this calendar is listed below.

Individuals may use a personal computer (equipped with camera, microphone and speaker), or a mobile device (such as an iPhone) to appear by ZoomGov video and ZoomGov audio. Individuals may also use a telephone to appear by ZoomGov audio only (standard telephone charges may apply). A Zoom or ZoomGov account is not necessary to connect to the hearings and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

A Zoom or ZoomGov account is not necessary to participate in the hearings and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and will constitutes its official record.

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**CONT...**

**Chapter 0**

**Video/audio web address:**    <https://cacb.zoomgov.com/j/1605518548>

**ZoomGov Meeting ID Number:**    160 551 8548

**Meeting Passcode:**                      3032023

**Telephone conference lines:** 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Reyes Bordeaux by ZoomGov, please see the information entitled "Procedures for Video & Telephonic Appearances" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-magdalena-reyes-bordeaux> under the tab "Phone/Video Appearances."

Docket          0

**Tentative Ruling:**

- NONE LISTED -

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11:00 AM

**6:19-20173 Roshanda Jeannen Dodds**

**Chapter 7**

**#1.00 CONT Motion to Convert Case From Chapter 7 to 13**

From: 4/4/23

EH\_\_

Docket 132

**Tentative Ruling:**

5/2/2023

If the Chapter 7 Trustee would like to request additional time for the opportunity to reply to Debtor's Supplemental Reply, the Court is inclined to continue the hearing to **May 16, 2023, at 11:00 a.m.** The Trustee may file a supplemental response to Debtor's Supplement Reply no later than **May 9, 2023.**

Appearances are REQUIRED. You can appear at the hearing in person or remotely.  
**For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

<b>Party Information</b>
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**Debtor(s):**

Roshanda Jeannen Dodds

Represented By  
Nicholas M Wajda  
Carlos C Alsina-Batista

**Movant(s):**

Roshanda Jeannen Dodds

Represented By  
Nicholas M Wajda  
Carlos C Alsina-Batista

**Trustee(s):**

Todd A. Frealy (TR)

Pro Se

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11:00 AM

**6:22-10606 Abelardo Soto Carrasco**

**Chapter 7**

**#2.00 Notice of Trustee's Final Report and Applications for Compensation**

EH\_\_

Docket 27

**Tentative Ruling:**

5/2/2023

The Court's tentative ruling is to grant Chapter 7 Trustee's application for compensation. No opposition has been filed. This application for compensation has been set for hearing on the notice required by LBR 2016-1(c)(4). Per Trustee's Final Report, the following administrative claims will be allowed:

Trustee's Fees:	<u>\$535.06</u>
Trustee's Expenses:	<u>\$50.19</u>

APPEARANCES WAIVED. Trustee shall prepare and upload a proposed order after the date and time of the hearing but no later than seven days thereafter. See LBR 9021-1(b)(1)(B). If oral or written opposition is presented at the hearing, the hearing may be continued.

<b>Party Information</b>
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**Debtor(s):**

Abelardo Soto Carrasco

Represented By  
Aaron Lloyd

**Trustee(s):**

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Tuesday, May 2, 2023**

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11:00 AM

**6:22-14547 Arturo Atilano Castillo**

**Chapter 7**

**#3.00 Motion to Withdraw as Attorney**

EH\_\_

Docket 25

**Tentative Ruling:**

5/2/2023

The Court's tentative ruling is to continue the hearing to May 23, 2023, at 11:00 a.m. given that the Motion may not be properly served to Debtor.

Appearances are REQUIRED. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

On December 5, 2022 (the "Petition Date"), Arturo Atilano Castillo ("Debtor") filed for Chapter 7 voluntary petition. Debtor's counsel is Brian J Soo-Hoo ("Mr. Soo-Hoo") and Todd A. Frealy is the appointed Chapter 7 Trustee ("Trustee").

On April 5, 2023, Mr. Soo-Hoo filed a motion to withdraw as counsel for Debtor ("Motion"). Dkt. 25. However, it appears that Debtor was not properly served with the Motion. The address listed in Debtor's petition is 6590 Hemingway Drive Riverside, CA 92500 ("Hemingway Address"). And there does not appear to be a change of address filed with the Court indicating Debtor no longer resides at the Hemingway Address.

The proof of service attached to the Motion does not indicate that Debtor was served at the Hemingway Address. Instead, Debtor appears to have been served at 231 E. Alessandro Blvd. 6H-124 Riverside, CA 92508, not the Hemingway address. To ensure the Debtor has received notice of the Motion, the hearing will be continued so that Mr. Soo-Hoo can serve Debtor at the Hemingway address.

<b>Party Information</b>
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**Debtor(s):**

Arturo Atilano Castillo

Represented By

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**CONT... Arturo Atilano Castillo**

**Chapter 7**

Brian J Soo-Hoo

**Movant(s):**

Arturo Atilano Castillo

Represented By  
Brian J Soo-Hoo

**Trustee(s):**

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court  
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**Tuesday, May 2, 2023**

**Hearing Room 303**

11:00 AM

**6:22-14772 Abelardo S Castro and Lilia M Castro**

**Chapter 7**

**#4.00** Motion for extension of time to file a complaint objecting to discharge and to dismiss the bankruptcy case

EH\_\_

Docket 19

**Tentative Ruling:**

5/2/2023

The Court's tentative ruling is to GRANT the Motion.

Appearances WAIVED. Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date [per LBR 9021-1(b)(1)(B)]. If oral or written opposition is presented at the hearing, the hearing may be continued.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

**Procedural Background**

On December 22, 2022, Abelardo S. Castro and Lilia M. Castro ("Debtors") filed for chapter 7 relief. On March 27, 2023, the Office of the United States Trustee ("UST") filed a Motion for Extension of Time to File a Complaint Objecting to Discharge and to Dismiss the Bankruptcy Case ("Motion"). Dkt. 19. UST's motion requests extending the deadlines to file a complaint objecting to Debtors' discharge and to dismiss the case from March 27, 2023 to July 30, 2023. Service of the Motion was proper, and no opposition has been filed.

**Legal Analysis**

Pursuant to Federal Rule of Bankruptcy Procedure ("FRBP") 4004 and 1017, the UST seeks to extend the deadline to file a complaint objecting to Debtor's discharge under

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**CONT... Abelardo S Castro and Lilia M Castro**

**Chapter 7**

11 U.S.C. § 727 and the deadline to seek dismissal under § 707 to July 30, 2023.

Under FRBP 4004(a) and 1017(e), on a motion of any party in interest, the court may for cause extend the time to object to discharge or to seek dismissal. Fed. R. Bankr. P. 4004, 1017. As a matter of practice what constitutes "*cause*" rests within the discretion of the bankruptcy court. *See In re James*, 187 B.R. 395, 397 (Bankr. N.D. Ga. 1995). (emphasis added) Also, courts are generally unified in the view that the term "*for cause*" should receive a liberal construction. *Id.* (emphasis added) Notwithstanding that fact, however, a creditor must exhibit some minimum degree of due diligence prior to seeking such an extension, and the court should not allow the motion to serve as license for a baseless "fishing expedition." *Id.*; *See also In re Leary*, 185 B.R. 405, 406 (Bankr. D. Mass. 1995).

To establish cause movant must do the following:

- (1) show that he had, with reasonable diligence, attempted to investigate the facts and circumstances, and
- (2) offer a reasonable explanation of why that investigation could not be completed within the allotted time. *See Bomarito*, 448 B.R. at 251.

In support of the Motion, the UST asserts the following:

1. At the meeting of creditors held on February 9, 2023, Debtors referenced a power of attorney and refused to answer questions from the UST's staff. However, the case docket indicates that Debtors are pro se. Green Decl. ¶ 4;
2. On February 21, 2023, the UST mailed a request to Debtors for their financial records with a two-week response date. Debtors failed to respond to the document request. *Id.* at ¶¶ 5-6; and
3. Debtors' meeting of creditors was continued to March 14, 2023. Debtors did not appear at the March 14, 2023 meeting of creditors. *Id.* at ¶ 7.

The Court finds that the UST has provided sufficient evidence to demonstrate that the UST has exercised due diligence to investigate the facts in this case prior to seeking such an extension. The UST's inability to complete the investigation within the



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**CONT... Abelardo S Castro and Lilia M Castro**

**Chapter 7**

current deadlines is caused by Debtors' failure to respond to the UST's questions at the initial meeting of creditors and the document requests and their failure to appear at the continued meeting of creditors. Moreover, Debtors, although properly served, have failed to file any response or opposition to the Motion, which shall be deemed consent to the granting of the Motion pursuant to LBR 9013-1(h).

**Conclusion**

Based on the record provided by the UST and the failure of Debtors to file opposition, the Court is inclined to GRANT the relief requested and provide the UST an extension for the filing of a complaint under § 727, and/or for the filing of a motion to dismiss under § 707, to July 30, 2023.

<b>Party Information</b>
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**Debtor(s):**

Abelardo S Castro	Pro Se
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**Joint Debtor(s):**

Lilia M Castro	Pro Se
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**Movant(s):**

United States Trustee (RS)	Represented By Everett L Green
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**Trustee(s):**

Charles W Daff (TR)	Pro Se
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2:00 PM

**6:22-10690 Enrique Ramirez**

**Chapter 7**

Adv#: 6:22-01046 E.M. Capital Investment, Inc. v. Ramirez

**#1.00** CONT Status Conference RE: [1] Adversary case 6:22-ap-01046. Complaint by E.M. Capital Investment, Inc. against Enrique Ramirez. willful and malicious injury)) (Wilkinson, Reilly)

From: 8/30/22, 11/8/15, 11/15/22, 12/6/22, 2/21/23, 3/28/23

EH\_\_

Docket 1

**\*\*\* VACATED \*\*\* REASON: STIPULATED ORDER DISMISSING  
ADVERSARY FILED 4/21/23**

**Tentative Ruling:**

<b>Party Information</b>
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**Debtor(s):**

Enrique Ramirez

Represented By  
Keith Q Nguyen

**Defendant(s):**

Enrique Ramirez

Represented By  
Donald W Reid

**Plaintiff(s):**

E.M. Capital Investment, Inc.

Represented By  
Reilly D Wilkinson

**Trustee(s):**

Lynda T. Bui (TR)

Pro Se

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2:00 PM

**6:22-11225 Joel Pilchong Chun**

**Chapter 7**

Adv#: 6:22-01058 Happy Rock Merchant Solutions LLC v. Chun

**#2.00** CONT Status Conference RE: [1] Adversary case 6:22-ap-01058. Complaint by Happy Rock Merchant Solutions LLC against Joel Pilchong Chun. false pretenses, false representation, actual fraud)), (68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Bovitz, J)

From: 10/5/22, 10/11/22, 12/13/22, 2/28/23, 3/7/23

EH\_\_

Docket 1

**Tentative Ruling:**

5/2/2023

The Court's tentative is to continue the status conference to **May 23, 2023, at 2:00 p.m.** for failure to file a status report as required under Local Bankruptcy Rule 7016-1(a)(2) or (a)(3). A joint status report is due 14 days prior to the status conference or a unilateral status report will due 7 days prior to the status conference. Please be aware that failure to file a joint or unilateral status report could result in the imposition of sanctions under LBR 7016-1(f) or (g), including dismissal of this adversary proceeding. Moreover, the discovery cutoff date of **April 28, 2023**, has lapsed.

Parties need to appraise the Court of the following:

1. Discovery cut-off date lapsed on April 28, 2023. Have all parties completed discovery?
2. Deadline to file Pre-trial Motions and pretrial Order is June 2, 2023: Are pre-trial motion filings anticipated?

Discovery Deadlines set forth at the March 7, 2023 status conference are reinstated below and include the continued status conference:

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**CONT...**

**Joel Pilchong Chun**

**Chapter 7**

1. Joint status report due: **5/9/23**
2. Status Conference re: Mediation: **5/16/23 @ 2:00 p.m.**
3. Status Conference: **5/23/23 @ 2:00 p.m.**
4. Last day to file pretrial motions and pretrial order: **6/2/23**
5. Pre-trial conference: **7/25/23 @ 2:00 p.m.**
6. Trial Date: **8/14/23-8/15/23**

Appearances are REQUIRED. You can appear at the hearing in person or remotely.  
**For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

**Procedural History:**

On July 5, 2022, Debtor/Defendant Joel Pilchong Chun ("Defendant") filed for Chapter 7 bankruptcy relief and a discharge was entered on July 11, 2022. On July 5, 2022, Plaintiff Happy Rock Merchant Solutions LLC ("Plaintiff") filed an adversary proceeding against Defendant. On October 26, 2022, Defendant filed an answer. Currently, a continued status conference is scheduled for May 2, 2023, at 2:00 p.m.

**Applicable Law:**

Local Bankruptcy Rule ("LBR") 7016-1(a)(2), sets forth that:

"Unless otherwise ordered by the court, at least 14 days before the date set for each status conference the parties are required to file a joint status report using mandatory court form"

LBR 7016-1(a)(3), also sets forth that:

"If any party fails to cooperate in the preparation of a joint status report and a response has been filed to the complaint, each party must file a unilateral status report not less than 7 days before the date set for each status conference, unless otherwise ordered by the court. The unilateral status report must contain a declaration setting forth the attempts made by the party to contact or obtain the cooperation of the non-complying party."

Moreover, the Central District of California Bankruptcy Court has a mandatory joint

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**CONT... Joel Pilchong Chun**

**Chapter 7**

status report form, F 7016-1.STATUS.REPORT, which can be accessed on the court's website at: [www.cacb.uscourts.gov/forms/local\\_bankruptcy\\_rules\\_forms](http://www.cacb.uscourts.gov/forms/local_bankruptcy_rules_forms).

**Legal Analysis**

The parties failed to file a joint status report with the Court fourteen (14) days before the status conference as required under LBR 7016-1(a)(2). Since parties did not file a timely joint status report with the Court, each party was then required to file a unilateral status report not less than seven (7) days before the status conference as required under LBR 7016-1(a)(3). Here, neither party filed a unilateral status report with the Court.

**Conclusion:**

The status conference will be continued to **May 23, 2023 at 2:00 p.m.**  
A joint status report is due by **May 9, 2023.**

<b>Party Information</b>
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**Debtor(s):**

Joel Pilchong Chun

Represented By  
Derrick Talerico

**Defendant(s):**

Joel Pilchong Chun

Represented By  
Derrick Talerico

**Plaintiff(s):**

Happy Rock Merchant Solutions

Represented By  
Steven S Newburgh  
Jack A. Reitman  
Jennifer E Newcomb

**Trustee(s):**

Todd A. Frealy (TR)

Pro Se

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**6:22-12506 Terry Lance Morocco**

**Chapter 7**

Adv#: 6:22-01097 Daff v. Steele et al

**#3.00** CONT Status Conference RE: [1] Adversary case 6:22-ap-01097. Complaint by Charles W. Daff against Thomas Michael Steele, Valentina M. Steele, Estate of Thomas F. Steele. (\$350.00 Fee Charge To Estate). to: 1) Avoid and Recover Intentional Fraudulent Transfer; 2) Avoid and Recover Constructive Fraudulent Transfer; 3) Disallow Claims; and 4) Unjust Enrichment Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)), (14 (Recovery of money/property - other))

From: 3/7/23

EH\_\_

Docket 1

**Tentative Ruling:**

5/2/2023

Appearances are REQUIRED. You can appear at the hearing in person or remotely.  
**For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

<b>Party Information</b>
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**Debtor(s):**

Terry Lance Morocco

Represented By  
Jenny L Doling

**Defendant(s):**

Thomas Michael Steele

Represented By  
David M Goodrich

Valentina M. Steele

Represented By  
David M Goodrich

Estate of Thomas F. Steele

Represented By  
David M Goodrich

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**CONT... Terry Lance Morocco**

**Chapter 7**

**Plaintiff(s):**

Charles W. Daff

Represented By  
Melissa Davis Lowe

**Trustee(s):**

Charles W Daff (TR)

Represented By  
Lynda T Bui

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2:00 PM

**6:22-14040 John Luciano Scafani**

**Chapter 7**

Adv#: 6:23-01014 Sciarrino et al v. Scafani

**#4.00** Status Conference RE: [1] Adversary case 6:23-ap-01014. Complaint by Anthony Sciarrino, Gina Sciarrino against John Luciano Scafani. 523(a)(2), false pretenses, false representation, actual fraud) and 523(a)(4), fraud as fiduciary, embezzlement, larceny

EH\_\_\_\_

Docket 1

**Tentative Ruling:**

5/2/2023

The Court's tentative is to continue the status conference to **May 23, 2023, at 2:00 p.m.** for failure to file a status report as required under Local Bankruptcy Rule 7016-1(a)(2) or (a)(3). The Court also intends to issue an order to show cause why the case should not be dismissed without prejudice if Defendant is not served by May 3, 2023 as required under FRCP 4(m).

Appearances are REQUIRED. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

**Procedural History:**

On October 26, 2022, Debtors John Luciano Scafani and Suzanne Marcelle Scafani ("Debtors") filed for Chapter 7 bankruptcy relief and a discharge was entered on February 6, 2023.

On February 2, 2023, Plaintiffs Anthony Sciarrino and Gina Sciarrino ("Plaintiffs") filed an adversary proceeding against Debtor John Luciano Scafani ("Defendant"). A summons was issued on the same day. To date, there is no proof of service of the summons filed with the Court. Currently, a status conference is scheduled for May 2, 2023, at 2:00 p.m.



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**CONT... John Luciano Scafani**

**Chapter 7**

**Applicable Law:**

Federal Rule of Bankruptcy Procedure ("FRBP") 7004(e), sets forth that:

"Service made under Rule 4(e), (g), (h)(1), (i), or (j)(2) F.R.Civ.P. shall be by delivery of the summons and complaint within 7 days after the summons is issued. If service is by any authorized form of mail, the summons and complaint shall be deposited in the mail within 7 days after the summons is issued. If a summons is not timely delivered or mailed, another summons shall be issued and served. This subdivision does not apply to service in a foreign country."

Federal Rule of Civil Procedure ("FRCP") 4(l), sets forth that:

"Affidavit Required. Unless service is waived, proof of service must be made to the court. Except for service by a United States marshal or deputy marshal, proof must be by the server's affidavit."

Federal Rule of Civil Procedure 4(m), sets forth that:

"If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f), 4(h)(2), or 4(j)(1), or to service of a notice under Rule 71.1(d)(3)(A)."

Local Bankruptcy Rule ("LBR") 7016-1(a)(2), sets forth that:

"Unless otherwise ordered by the court, at least 14 days before the date set for each status conference the parties are required to file a joint status report using mandatory court form"

LBR 7016-1(a)(3), also sets forth that:

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**John Luciano Scafani**

**Chapter 7**

"If any party fails to cooperate in the preparation of a joint status report and a response has been filed to the complaint, each party must file a unilateral status report not less than 7 days before the date set for each status conference, unless otherwise ordered by the court. The unilateral status report must contain a declaration setting forth the attempts made by the party to contact or obtain the cooperation of the non-complying party."

Moreover, the Central District of California Bankruptcy Court has a mandatory joint status report form, F 7016-1.STATUS.REPORT, which can be accessed on the court's website at: [www.cacb.uscourts.gov/forms/local\\_bankruptcy\\_rules\\_forms](http://www.cacb.uscourts.gov/forms/local_bankruptcy_rules_forms).

**Legal Analysis**

**Failure to Serve Summons**

A summons was issued on February 2, 2023. Under FRBP 7004(e), Plaintiff must serve the summons within seven (7) days after the summons was issued. Under FRCP 4(l), Plaintiff is also required to file a proof of service of the summons to the Court. To date, there is no such proof of service of the summons filed to the Court.

Further, FRCP 4(m) provides that the action must be dismissed without prejudice if the defendant is not served within 90 days after the complaint is filed unless good cause is shown. Here, the Complaint was filed on February 2, 2023. The 90-day period will lapse by May 3, 2023. If Defendant is not served by May 3, 2023, the Court intends to issue an order to show cause why this case should not be dismissed without prejudice under FRCP 4(m).

**Failure to File a Status Report**

The parties failed to file a joint status report with the Court fourteen (14) days before the status conference as required under LBR 7016-1(a)(2). Since parties did not file a timely joint status report with the Court, each party was then required to file a unilateral status report not less than seven (7) days before the status conference as required under LBR 7016-1(a)(3). Here, neither party filed a unilateral status report with the Court.

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**CONT... John Luciano Scafani**

**Chapter 7**

**Conclusion:**

Plaintiff needs to appraise the Court what is the status as to the service of the summons to Defendant. If Defendant is not served by May 3, 2023, the Court intends to issue an order to show cause why this case should not be dismissed without prejudice under FRCP 4(m).

The status conference will be continued to **May 23, 2023 at 2:00 p.m.**

A joint status report is due **May 9, 2023** or a unilateral report is due **May 16, 2023.**

<b>Party Information</b>
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**Debtor(s):**

John Luciano Scafani

Represented By  
Brian J Soo-Hoo

**Defendant(s):**

John Luciano Scafani

Pro Se

**Joint Debtor(s):**

Suzanne Marcelle Scafani

Represented By  
Brian J Soo-Hoo

**Plaintiff(s):**

Anthony Sciarrino

Represented By  
David L Speckman

Gina Sciarrino

Represented By  
David L Speckman

**Trustee(s):**

Howard B Grobstein (TR)

Pro Se

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**6:22-14040 John Luciano Scafani**  
Adv#: 6:23-01015 Cangialosi v. Scafani

**Chapter 7**

**#5.00** Status Conference RE: [1] Adversary case 6:23-ap-01015. Complaint by Luigi Cangialosi against John Luciano Scafani. 523(a)(2), false pretenses, false representation, actual fraud)), and 523(a)(4), fraud as fiduciary, embezzlement, larceny)

EH\_\_\_\_

Docket 1

**Tentative Ruling:**

5/2/2023

The Court's tentative is to continue the status conference to **May 23, 2023, at 2:00 p.m.** for failure to file a status report as required under Local Bankruptcy Rule 7016-1(a)(2) or (a)(3). The Court also intends to issue an order to show cause why the case should not be dismissed without prejudice if Defendant is not served by May 3, 2023 as required under FRCP 4(m).

Appearances are REQUIRED. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

**Procedural History:**

On October 26, 2022, Debtors John Luciano Scafani and Suzanne Marcelle Scafani ("Debtors") filed for Chapter 7 bankruptcy relief and a discharge was entered on February 6, 2023.

On February 2, 2023, Plaintiff Luigi Cangialosi ("Plaintiff") filed an adversary proceeding against Debtor John Luciano Scafani ("Defendant"). A summons was issued on the same day. To date, there is no proof of service of the summons filed with the Court. Currently, a status conference is scheduled for May 2, 2023, at 2:00 p.m.

**United States Bankruptcy Court  
Central District of California  
Riverside  
Magdalena Reyes Bordeaux, Presiding  
Courtroom 303 Calendar**

**Tuesday, May 2, 2023**

**Hearing Room 303**

2:00 PM

**CONT... John Luciano Scafani**

**Chapter 7**

**Applicable Law:**

Federal Rule of Bankruptcy Procedure ("FRBP") 7004(e), sets forth that:

"Service made under Rule 4(e), (g), (h)(1), (i), or (j)(2) F.R.Civ.P. shall be by delivery of the summons and complaint within 7 days after the summons is issued. If service is by any authorized form of mail, the summons and complaint shall be deposited in the mail within 7 days after the summons is issued. If a summons is not timely delivered or mailed, another summons shall be issued and served. This subdivision does not apply to service in a foreign country."

Federal Rule of Civil Procedure ("FRCP") 4(l), sets forth that:

"Affidavit Required. Unless service is waived, proof of service must be made to the court. Except for service by a United States marshal or deputy marshal, proof must be by the server's affidavit."

Federal Rule of Civil Procedure 4(m), sets forth that:

"If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f), 4(h)(2), or 4(j)(1), or to service of a notice under Rule 71.1(d)(3)(A)."

Local Bankruptcy Rule ("LBR") 7016-1(a)(2), sets forth that:

"Unless otherwise ordered by the court, at least 14 days before the date set for each status conference the parties are required to file a joint status report using mandatory court form"

LBR 7016-1(a)(3), also sets forth that:

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**CONT...**

**John Luciano Scafani**

**Chapter 7**

"If any party fails to cooperate in the preparation of a joint status report and a response has been filed to the complaint, each party must file a unilateral status report not less than 7 days before the date set for each status conference, unless otherwise ordered by the court. The unilateral status report must contain a declaration setting forth the attempts made by the party to contact or obtain the cooperation of the non-complying party."

Moreover, the Central District of California Bankruptcy Court has a mandatory joint status report form, F 7016-1.STATUS.REPORT, which can be accessed on the court's website at: [www.cacb.uscourts.gov/forms/local\\_bankruptcy\\_rules\\_forms](http://www.cacb.uscourts.gov/forms/local_bankruptcy_rules_forms).

**Legal Analysis**

**Failure to Serve Summons**

A summons was issued on February 2, 2023. Under FRBP 7004(e), Plaintiff must serve the summons within seven (7) days after the summons was issued. Further, under FRCP 4(l), Plaintiff is also required to file a proof of service of the summons to the Court. To date, there is no such proof of service of the summons filed to the Court.

Further, FRCP 4(m) provides that the action must be dismissed without prejudice if the defendant is not served within 90 days after the complaint is filed unless good cause is shown. Here, the Complaint was filed on February 2, 2023. The 90-day period will lapse by May 3, 2023. If Defendant is not served by May 3, 2023, the Court intends to issue an order to show cause why this case should not be dismissed without prejudice under FRCP 4(m).

**Failure to File a Status Report**

The parties failed to file a joint status report with the Court fourteen (14) days before the status conference as required under LBR 7016-1(a)(2). Since parties did not file a timely joint status report with the Court, each party was then required to file a unilateral status report not less than seven (7) days before the status conference as required under LBR 7016-1(a)(3). Here, neither party filed a unilateral status report with the Court.

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**CONT... John Luciano Scafani**

**Chapter 7**

**Conclusion:**

Plaintiff needs to appraise the Court what is the status as to the service of the summons to Defendant. If Defendant is not served by May 3, 2023, the Court intends to issue an order to show cause why this case should not be dismissed without prejudice under FRCP 4(m).

The status conference will be continued to **May 23, 2023 at 2:00 p.m.**

A joint status report is due **May 9, 2023** or a unilateral report is due **May 16, 2023**.

<b>Party Information</b>
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**Debtor(s):**

John Luciano Scafani

Represented By  
Brian J Soo-Hoo

**Defendant(s):**

John Luciano Scafani

Pro Se

**Joint Debtor(s):**

Suzanne Marcelle Scafani

Represented By  
Brian J Soo-Hoo

**Plaintiff(s):**

Luigi Cangialosi

Represented By  
David L Speckman

**Trustee(s):**

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Riverside  
Magdalena Reyes Bordeaux, Presiding  
Courtroom 303 Calendar**

**Tuesday, May 2, 2023**

**Hearing Room 303**

2:00 PM

**6:22-14173 Shu-Chen Wu**

**Chapter 13**

Adv#: 6:23-01019 Ceron v. Wu et al

**#6.00 Motion to Dismiss Adversary Proceeding**

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Docket 5

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/16/23 AT 2:00 P.M.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Shu-Chen Wu

Represented By  
Benjamin Heston

**Defendant(s):**

Shu-Chen Wu

Represented By  
Benjamin Heston

Geogiang Joseph Yue

Represented By  
Benjamin Heston

**Joint Debtor(s):**

Geogiang Yue

Represented By  
Benjamin Heston

**Movant(s):**

Shu-Chen Wu

Represented By  
Benjamin Heston  
Benjamin Heston  
Benjamin Heston

Geogiang Joseph Yue

Represented By  
Benjamin Heston  
Benjamin Heston



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2:00 PM

**CONT... Shu-Chen Wu**

**Chapter 13**

**Plaintiff(s):**

Emilio Ceron

Represented By  
Fritz J Firman

**Trustee(s):**

Rod Danielson (TR)

Pro Se